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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No. 11-C-13555
)	
SARAH JO DAVIS,)	RECOMMENDATION OF SUMMARY
)	DISBARMENT
A Member of the State Bar, No. 258014.)	
_____)	

On November 13, 2012, the State Bar filed a request for recommendation of summary disbarment based on Sarah Jo Davis's felony conviction. Davis did not file a response. We grant the request and recommend that Davis be summarily disbarred.

On June 8, 2012, the District Court of Barnes County, North Dakota entered a judgment of conviction following Davis's guilty plea to one felony count of burglary, in violation of North Dakota Century Code Section 12.1-22-02(1). Effective August 27, 2012, we placed Davis on interim suspension. On November 13, 2012, the State Bar transmitted evidence that Davis's conviction is final.

After the judgment of conviction becomes final, "the Supreme Court shall summarily disbar the attorney if the offense is a felony . . . and an element of the offense is the specific intent to deceive, defraud, steal, or make or suborn a false statement, or involved moral turpitude." (Bus. & Prof. Code, § 6102, subd. (c).) The record of conviction establishes that Davis's conviction meets the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c).

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First, the offense is a felony. Davis was convicted of one felony count of willfully entering a building or occupied structure, or a separately secured or occupied portion thereof, when at the time the premises were not open to the public and she was not licensed, invited, or otherwise privileged to enter, with intent to commit a crime therein. (N.D.C.C. § 12.1-22-02(1).) The judgment does not indicate which crime Davis had the intent to commit, but according to the charging document, Davis "entered the home of [two individuals] . . . with the intent to commit the crime of theft of property." The crime is equivalent to first-degree burglary in California.

In California, "[b]urglary is the entry of a building with intent to commit grand or petit larceny or any felony." (*People v. Carter* (1933) 130 Cal. App. 95, 96; Pen. Code § 459.) "Every burglary of an inhabited dwelling house . . . is burglary of the first degree." (Pen. Code § 460, subd. (a).) "[I]nhabited' means currently being used for dwelling purposes, whether occupied or not." (Pen. Code, § 459.) First degree burglary is a felony. (Pen. Code, §§ 17, subd. (a) [felony is crime punishable by state imprisonment] and 461 [first-degree burglary is punishable by state imprisonment for two, four, or six years].) Accordingly, Davis's burglary violation in North Dakota constitutes a felony for the purposes of attorney discipline in California. (Bus. & Prof. Code, § 6102, subd. (d) [out-of-state conviction is felony for discipline if entered as felony and elements would constitute felony in California].)

Second, the offense inherently involves moral turpitude. Davis's burglary conviction required proof that she had the "intent to commit a [theft] crime" when she entered the home. (*State v. Arne* (1981) 311 N.W.2d 186, 188.) In California, first-degree burglary requires the person to enter an inhabited dwelling house with the intent to commit grand or petit larceny or any felony. (Pen. Code, §§ 459, 460.) "[W]hether or not the target felony itself evidences a moral defect, burglary remains in all cases the fundamentally deceitful act of entering a house . . . with the secret intent to steal or commit another serious crime inside. A felony conviction of

such an act demonstrates a 'readiness to do evil' and hence necessarily involves moral turpitude. [Citations.]" (*People v. Collins* (1986) 42 Cal.3d 378, 395, fn. omitted.) Further, in this case the "target" crime is theft, which clearly falls within the definition of moral turpitude. (*In re Vaughn* (1985) 38 Cal.3d 614, 615 [grand theft necessarily involves moral turpitude]; *In re Honoroff* (1975) 15 Cal.3d 755, 758 [petty theft involves moral turpitude].) Accordingly, North Dakota Century Code Section 12.1-22-02(1) involves moral turpitude.

When an attorney's conviction meets the requirements of Business and Professions Code section 6102, subdivision (c), "the attorney is not entitled to a State Bar Court hearing to determine whether lesser discipline is called for." (*In re Paguirigan* (2001) 25 Cal.4th 1, 7.) Disbarment is mandatory. (*Id.* at p. 9.)

We therefore recommend that Sarah Jo Davis, State Bar number 258014, be disbarred from the practice of law in this state. We also recommend that she be ordered to comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court's order. Finally, we recommend that the costs be awarded to the State Bar in accordance with section 6086.10 of the Business and Professions Code and that such costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

REMKE

Presiding Judge

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on December 14, 2012, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED DECEMBER 14, 2012

in a sealed envelope for collection and mailing on that date as follows:

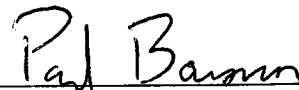
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**JEROME FISHKIN
FISHKIN & SLATTER LLP
1575 TREAT BLVD
STE 215
WALNUT CREEK, CA 94598**

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Donald Robert Steedman, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 14, 2012.



Paul Barona
Case Administrator
State Bar Court